

surviving beneficiary or beneficiaries of a deceased covered employee without an independent cause of action, will disqualify that individual or individuals from receiving benefits under the EEOICPA unless the suit is terminated in accordance with the requirements of §§ 30.616 through 30.619 of these regulations.

§ 30.616 What happens if this type of tort suit was filed prior to October 30, 2000?

(a) If a tort suit described in § 30.615 was filed prior to October 30, 2000, the claimant or claimants will not be disqualified from receiving any EEOICPA benefits to which they may be found entitled if the tort suit was terminated in any manner prior to December 28, 2001.

(b) If a tort suit described in § 30.615 was filed prior to October 30, 2000 and was pending as of December 28, 2001, the claimant or claimants will be disqualified from receiving any EEOICPA benefits unless they dismiss the tort suit prior to December 31, 2003.

§ 30.617 What happens if this type of tort suit was filed during the period from October 30, 2000 through December 28, 2001?

(a) If a tort suit described in § 30.615 was filed during the period from October 30, 2000 through December 28, 2001, the claimant or claimants will be disqualified from receiving any EEOICPA benefits unless they dismiss the tort suit on or before the last permissible date described in paragraph (b) of this section.

(b) The last permissible date is the later of:

- (1) April 30, 2003; or
- (2) The date that is 30 months after the date the claimant or claimants first became aware that an illness of the covered employee may be connected to his or her exposure to beryllium or radiation covered by the EEOICPA. For purposes of determining when this 30-month period begins, "the date the claimant or claimants first became aware" will be deemed to be the date they received either a reconstructed dose from HHS, or a diagnosis of a covered beryllium illness, as applicable.

§ 30.618 What happens if this type of tort suit is filed after December 28, 2001?

(a) If a tort suit described in § 30.615 is filed after December 28, 2001, the claimant or claimants will be disqualified from receiving any EEOICPA benefits if a final court decision is entered against them.

(b) If a tort suit described in § 30.615 is filed after December 28, 2001 and a final court decision has not yet been entered against the claimant or claimants, they will also be disqualified from receiving any EEOICPA benefits unless they dismiss the tort suit on or before the last permissible date described in paragraph (c) of this section.

(c) The last permissible date is the later of:

- (1) April 30, 2003; or
- (2) The date that is 30 months after the date the claimant or claimants first became aware that an illness of the covered employee may be connected to his or her exposure to beryllium or radiation covered by the EEOICPA. For purposes of determining when this 30-month period begins, "the date the claimant or claimants first became aware" will be deemed to be the date they received either a reconstructed dose from HHS, or a diagnosis of a covered beryllium illness, as applicable.

§ 30.619 Do all the parties to this type of tort suit have to take these actions?

The type of tort suits described in § 30.615 may be filed by more than one individual, each with a different cause of action. For example, a tort suit may be filed against a beryllium vendor by both a covered employee and his or her spouse, with the covered employee filing for chronic beryllium disease and the spouse filing for loss of consortium due to the covered employee's exposure to beryllium. However, since the spouse of a living covered employee could not be an eligible surviving beneficiary under the EEOICPA, the spouse would not have to comply with the termination requirements of §§ 30.616 through 30.618. A similar result would occur if a tort suit were filed by both the spouse of a deceased covered employee and other family members (such